

## Pay Administration

### Technician Student Loan Repayment Benefit Plan

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**Summary of Changes.** This regulation establishes the California National Guard's Student Loan Repayment Benefit Plan for California National Guard Title 32 Dual Status and Non-Dual Status technicians.

**Applicability.** California National Guard Full-time Personnel Regulation (CNGFPR) applies to all California Army and Air National Guard technicians and to commanders, managers and supervisors (military or civilian) with authority or responsibility over technician personnel management.

**Proponent and Exception Authority.** The proponent of this regulation is the Joint Force Headquarters, J-1, Directorate for Human Resources. The proponent has authority to approve exceptions to this regulation when they are consistent with controlling laws and regulations.

**Supplementation.** Supplementation of this regulation is prohibited.

**Suggested Improvements.** Users of this regulation are invited to send comments and suggested improvements to Joint Force Headquarters, Directorate for Human Resources, 9800 Goethe Road, Sacramento, CA 95826-9101.

**Distribution.** Distribution of the regulation is Army - A and Air Force - F.

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#### 1. Purpose.

a. This technician personnel regulation establishes guidelines regarding the California National Guard Student Loan Repayment Benefit Plan. This plan provides the parameters for implementation of the incentive within the California National Guard Title 32 Technician Program. Repayment is limited to outstanding federally insured loans made by educational institutions or banks, and other private lenders as authorized by the Higher Education Act of 1965 and the Public Health Service Act (5 CFR 537.102). The Higher Education Act covers guaranteed student loan programs such as: Stafford Loans (subsidized, unsubsidized, Direct subsidized, and Direct unsubsidized);

Plus Loans (Federal and Direct Federal); Federal Consolidation Loans (Direct subsidized and Direct unsubsidized); Defense Loans (made before July 1, 1972); National Direct Student Loans (made between 7/1/72 and 7/1/87); and Perkins Loans. Loans covered under the Public Health Service Act include the: Nursing Student Loan Program loans; Health Profession Student Loan Program loans; and Health Education Assistance Loan Program loans.

b. The establishment and continuation of this program will not be construed as establishing a “past practice” or a condition of employment which would otherwise violate management’s rights established by 5 USC 7106.

## **2. References.**

Section 5379 of Title 5, United States Code, and Part 537 of Title 5, Code of Federal Regulations (CFR), establish the statutory and regulatory authority for the use of student loan repayment as a recruitment or retention incentive.

## **3. Responsibilities.**

a. The Director/Deputy Director for Human Resources is responsible evaluating, based on merit and organizational requirements, requests for Student Loan Repayment Benefit.

b. Commanders, directors, managers, and supervisors are responsible for fairly considering their subordinates for recruitment and retention tools such as the Student Loan Repayment Benefit.

c. The appropriate Comptroller is responsible for coordinating with the Defense Finance and Accounting Service (DFAS) the repayment of student loans approved in the exercise of this regulation.

## **4. Annual/Lifetime Limitations.**

Loan repayments are limited to \$10,000 a year and a lifetime limit of \$60,000. Payments may be applied only to the indebtedness outstanding at the time the California National Guard and the employee enters into an agreement, and may not begin before the employee enters on duty with the California National Guard.

## **5. Tax Liability.**

a. Although a student loan payment is paid directly to the loan holder on behalf of the employee, the payment is nonetheless includible in the employee’s gross income and wages for Federal employment tax purposes. Consequently, the California National Guard must withhold and pay employment taxes from either of the employee’s regular wages, the loan payment, or a separate payment made by the employee. The applicable employment taxes include Federal income taxes withheld from wages (and, where appropriate, State and local income taxes) and the employee’s share of social security and Medicare taxes. Tax withholdings must be deducted or applied at the time any loan payment is made. (See 5 CFR 537.106(a).) The agency may choose among several different methods for withholding taxes. Please note the implications of deducting taxes directly from a gross loan payment. For example, if the agency has approved a student loan repayment benefit of \$10,000 and the employee’s tax deductions are \$3,000, then the agency will make a loan payment of \$7,000. The full \$10,000 counts toward the maximum limitations described in paragraph 4 above.

b. The California National Guard must report to the IRS the amount of student loan benefits they have provided to an employee. The loan repayment must be reported as wages in Box 1 of Form W-2, Wage and Tax Statement, and as Medicare wages in Box 5 of Form W-2. If wages paid to an agency’s employee are subject to social security taxes, the repayment is also reported as social security wages in Box 3 of Form W-2. The repayment is includible in social security wages, however, only to the extent that the repayment together with other wages previously paid during the calendar year does not exceed the social security wage base for that year. The repayment is reported as wages on line 7 of Form 1040 or, alternatively, on line 1 of Form 1040EZ.

c. Recipients are responsible for any tax obligation resulting from the loan repayment benefit.

## **6. Interest Deductibility.**

Recipients may be able to deduct the interest on their student loans even though the interest is included in the total loan amount and paid by the California National Guard. Recipients should consult a professional tax advisor and/or Internal Revenue Service publications.

## **7. Eligibility.**

a. This plan applies to California National Guard Title 32 General Schedule (GS) and Federal Wage System (FWS) positions. Student loan repayment is offered to facilitate the recruitment or retention of highly qualified employees who meet the eligibility criteria established in 5 CFR 537.104. The incentive may be paid provided there is a written determination by the approving official that, in the absence of student loan repayment, the California National Guard would encounter difficulty in filling the position or retaining the employee in that position.

- b. Determinations for recruitment purposes must be made before the employee enters on duty.
- c. Determinations for retention purposes must be based on the qualifications of the employee or the special need of the state for the employee's services and, in the absence of offering loan repayments, and assessment that the employee would be likely to leave the Federal service. This determination must be based on a written description of the extent to which the employee's departure would affect the California National Guard's ability to carry out an activity or perform a function that is deemed essential to the Federal National Guard mission. When selecting employees to be recipients, merit system principles must be followed.
- d. Temporary employees whose appointment may not legally exceed one year at a time are not eligible for consideration for a student loan repayment benefit.
- e. Indefinite (Dual Status) and Term (Non-Dual Status) employees whose appointments will not reasonably be retained for the minimum three year service agreement are ineligible for consideration for a student loan repayment benefit.
- f. The California National Guard may agree only to make payments on those student loans taken out prior to the student loan repayment agreement. (See 5 U.S.C. 5379(b)(1).)
- g. Loans purchased or sold by the original holder are eligible for payment, assuming the other conditions of the regulations are met. It is the responsibility of the recipient to notify the appropriate personnel if there has been changes.
- h. Special requirements for PLUS loans. The statute authorizing the student loan repayment program states that this incentive is to be used for employees of a given federal agency who have outstanding student loans. Thus, if the employee has a PLUS loan for his or her child, the employee would be eligible. However, if a PLUS loan is held by an employee's parent, the employee is not eligible for loan repayment benefits for the parent's PLUS loan.

## **7. Award Criteria.**

The Adjutant General has established the criteria that the technician either (for recruitment purposes) would likely not accept an employment offer by the California National Guard or (for retention purposes) likely leave employment with the California National Guard absent the Student Loan Repayment Benefit. When requesting a Student Loan Repayment Benefit, the supervisor or commander must describe in detail the criteria used to determine the award amount to comply with OPM regulations at 5 CFR 537.105 and 5 CFR 537.106. The award amount must be the minimum necessary to recruit or retain the technician.

- a. The amount paid may not exceed maximum statutory limitations.
- b. Prior to authorizing loan repayments, verification must be made that the employee has a qualifying outstanding student loan IAW 5 CFR 537.102 and 5 CFR 537.106.
- c. More than one loan can be repaid as long as the payments do not exceed the legally prescribed limits.
- d. At no time can payment be made to cover accrued penalties associated with any loans.
- e. This recruitment tool may be used in conjunction with other recruitment and retention tools including recruitment, relocation, and retention incentives.
- f. The law does not require that an employee earn a degree, diploma, or certificate to be eligible for a student loan repayment benefit.

## **8. Determining the Award Amount.**

- a. For all federal technician positions in the California National Guard, the maximum award amount for each year is \$10,000 with the minimum service agreement of three years.
- b. Supervisors have discretion in recommending a lesser amount than that of the student loan repayment amount. Supervisors are encouraged to link requested award amounts to criteria such as applicability of education to the work being performed by the technician, length of service agreement, whether or not the technician has met degree requirements or been awarded the applicable certificate, level of education, prior receipt of a student loan repayment, value to the organization of the employees training/education/certificate, and future growth potential of the technician.
- c. At no time may the lifetime limit of \$60,000 be exceeded.
- d. Payments under the Student Loan Repayment Benefit Plan are not subject to the aggregate limitation on pay contained in 5 CFR 530.203 and CNG TPR 530. The aggregate limitation on pay applies to direct payments made to the employee, whereas student loan payments are paid to the loan holder on behalf of the employee.

## **9. Student Loan Repayment Request/Approval.**

The authority to approve repayment of student loans for California National Guard Title 32 Technicians is delegated by The Adjutant General to the Director/Deputy Director for Human Resources. Student loan repayment requests are initiated and documented/approved on the CNG Form 690-17, Request for Student Loan Repayment Benefit. Award amounts may be adjusted based on the strength of the justification provided.

#### **10. Student Loan Repayment Benefit Service Agreement.**

a. A student loan repayment is made directly to the lender under the terms, limitations, and conditions of a written service agreement between the California National Guard and the employee for a specified period of employment with DoD (minimum of 3 years). This is accomplished by the CNG Form 690-18, Student Loan Repayment Benefit Service Agreement, which must accompany the request. The CNG 690-18 contains the information required by 5 CFR 537 and this plan. The incentive is in addition to basic pay and any other form of compensation payable to the employee.

b. Service requirements begin on the date stated in the agreement. The California National Guard may extend or renew payments without requiring a new period of service. If an extension/renewal is accomplished, the servicing payroll office shall be provided with a copy of the amended agreement to ensure the size and duration of payments to the loan holder is adjusted accordingly.

c. If an employee voluntarily separates from Federal civil service and does not complete the terms of the service agreement, he or she is obligated to reimburse the California National Guard for the full amount of the loan repayment benefits provided (gross before any tax deductions from the loan payment). For example, if an employee's agreement states that he or she will receive \$10,000 per year for 3 years, and the employee leaves with 6 months remaining on the service agreement after receiving \$25,000 in loan repayment benefits, the employee must reimburse the paying agency for \$25,000. The debt collection process is outlined in DoD 7000.14-R, Department of Defense Financial Management Regulation, Volume 8. The appropriate authority at DFAS may waive the recovery of an employee's debt, in whole or in part, if he or she determines that recovery would be against equity and good conscience, or against the public interest. However, recipients are cautioned that accepting employment outside the federal civil service will most likely incur a debt.

#### **11. Loan Repayment Procedures.**

DFAS will make payments to the lender either on a biweekly basis, or on a pro-rated lump sum after the completion of each year of the service agreement on the annual anniversary date.

a. Biweekly basis. DFAS will determine the amount to be paid by dividing the annual repayment amount by the number of pay periods in the year for which payments are made. This usually will be 26 payments per year, except for years having 27 pay periods. In those cases, 27 biweekly payments will be made.

b. Lump sum basis. DFAS will determine the amount to be paid adjusting the annual repayment amount for federal/state income taxes, as appropriate. In this case, a single lump sum payment will be made at the end of each completed years service contained in the service agreement. This lump sum payment is made on or soon after the annual anniversary date.

c. The loan repayment amount will be considered as taxable wages and tax withholding will be made, as appropriate. The contributions for tax purposes are included in the total annual award amount.

d. The California National Guard is not responsible for any late fees or penalties assessed by loan holders prior to, during, or subsequent to this agreement. Recipients are cautioned to make the minimum loan payment each month to prevent the assessment of late fees, if due to unforeseen circumstances, the California National Guard payment is not made/processed timely.

e. Recipients are responsible for making loan payments on the portion of the loan that continues to be their responsibility.

#### **12. Annual Recertification.**

This process is similar to the recertification of retention incentives, in which the Directorate for Human Resources suspends the effective date of the service agreement and follows up with the appropriate management official. The appropriate financial official provides a statement that funds are still available for the entire calendar year and that each loan has been reviewed to ascertain whether or not it is in arrears or default. If the amount of the allotment(s) will not change, then a statement to that effect must be provided to the payroll office. If the amount of the loan repayment(s) will be different from the prior year, the new information must be provided. If the loan(s) is in arrears or default, then the management official must determine the appropriate course of action and inform the employee and the servicing human resources staff. If payments will be terminated, then the California National Guard will inform the employee, the payroll office, and the lender/note holder.

#### **13. Reduction/Cancellation of Student Loan Repayment Agreements.**

The California National Guard may reduce or cancel any Student Loan Repayment Agreement at any time if the conditions warranting payment no longer exist. Payments may also be reduced or cancelled if budget constraints require such reduction or cancellation. If a Student Loan Repayment Benefit Service Agreement is cancelled by the California National Guard due to no fault of the technician, the technician will be released from the

service agreement and no debt collection action will take place. If the technician's separation from the federal civil service is voluntary in nature or for cause, debt collection action will be initiated.

**14. Transfer between Federal Agencies.**

a. When a federal employee transfers between federal agencies to the California National Guard, there is no obligation for the California National Guard to make any student loan payment benefit previously agreed to by another agency. There is no prohibition of establishing another student loan repayment benefit agreement as long as the employee has not exceeded the annual/lifetime limits.

b. When a California National Guard technician transfers to another federal agency as a federal civil service employee, the Directorate for Human Resources will determine if reimbursement is required.

**15. Impact of Military Duty and Leave-Without-Pay (LWOP).**

a. When a California National Guard technician is placed in leave-without-pay (LWOP) status for more than 30 calendar days for military duty of any type, repayment of the student loan and the service agreement time clock are placed on hold. Student loan payments and the service agreement time clock will resume when the technician has been returned to duty and is not longer in a LWOP status.

b. When a California National Guard technician chooses to separate to perform military service, they must have completed the minimum of three years of the service agreement or repay the entire amount of the student loan repayment benefit paid on their behalf.

c. When a California National Guard technician is placed on LWOP for personal reasons, repayment of the student loan and the service agreement time clock are placed on hold. Student loan payments and the service agreement time clock will resume when the technician has been returned to duty and is not longer in a LWOP status.

**16. Documentation and Records.**

The Director for Human Resources is responsible for ensuring that the justification for each student loan repayment incentive is documented and records are maintained in accordance with 5 CFR, Part 537. Documentation shall include verification that the employee's outstanding student loan qualifies for repayment and shall contain the written determinations of recipient eligibility as required by 5 CFR 537.105. Records will be maintained on a fiscal year basis for a minimum of three (3) years. Records must be substantive to allow the reconstruction of the action, determining the number of employees receiving the loan repayment incentive, the job classification of each recipient, and the total cost of the student loan repayment incentive.

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